



Disability Employment Australia

Constitution

Disability Employment Australia (ABN 94 101 549 919)

A company limited by guarantee

Constitution as amended by special resolution of the company in special general meeting on 28 August 2018

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1 Definitions and interpretation

1.1 Definitions

In this Constitution unless the contrary intention appears:

Application Fee means an amount determined by the Directors to be payable in respect of an application for membership of the Company.

Annual Subscription Fee means an amount determined by the Directors to be payable upon application for membership of the Company and yearly thereafter.

By-Laws means any by-laws, charters, rules, policies, procedures, codes or other standards, of the Company made by the Directors pursuant to the Constitution, and for the time being in force.

Committee means a committee of Directors constituted under article 10.6.

Company means Disability Employment Australia.

Constitution means this constitution as amended from time to time, and a reference to an article is a reference to an article of this Constitution.

Corporate Body means any body incorporated under the Corporations Act or the incorporation legislation of any Australian state.

Corporations Act means the Corporations Act 2001 (Cth).

Director means a person holding office as a director.

Directors means all or some of the Directors acting as a board.

Member means a Corporate Body entered in the register of members as a member of the Company.

Officer means a person appointed as an officer of the Company in accordance with article 8.5.

Part means a Part of this Constitution.

Registered Office means the registered office of the Company.

Representative means a person appointed to represent a corporate Member at a general meeting of the Company in accordance with the Corporations Act.

Secretary means article the secretary of the Company, and where appropriate includes an acting secretary and a person appointed by the Directors to perform all or any of the duties of a secretary of the Company.

Special Resolution means a resolution that has been passed, in accordance with the Corporations Act, by at least 75% of Members entitled to vote on the resolution.

Tax Act means the Income Tax Assessment Act 1997 (Cth).

Term means two years.

1.2 Interpretation

In this Constitution unless the contrary intention appears:

- (a) **(gender)** words importing any gender include all other genders;
- (b) **(person)** the word person includes a Corporate Body;
- (c) **(singular includes plural)** the singular includes the plural and vice versa;
- (d) **(meaning not limited)** a reference to the words “include”, “including”, “for example” or “such as”, when introducing an example, does not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
- (e) **(regulations)** a reference to a law includes regulations and instruments made under the law;
- (f) **(amendments to statutes)** a reference to a law or a provision of a law includes amendments, re-enactments or replacements of that law or the provision, whether by the State or the Commonwealth of Australia or otherwise;
- (g) **(from time to time)** a power, an authority or a discretion reposed in a Director, the Directors, the Company in general meeting or a Member may be exercised at any time and from time to time;
- (h) **(signed)** where, by a provision of this Constitution, a document including a notice is required to be signed, that requirement may be satisfied in relation to an electronic communication of the document in any manner permitted by law or by any State or Commonwealth law relating to electronic transmissions or in any other manner approved by the Directors;
- (i) **(writing)** “writing” and “written” includes printing, typing and other modes of reproducing words in a visible form including, without limitation, any representation of words in a physical document or in an electronic communication or form or otherwise; and
- (j) **(currency)** a reference to \$ is a reference to the lawful currency of Australia.

1.3 Corporations Act

In this Constitution unless the contrary intention appears:

- (a) an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Corporations Act, the same meaning as in that provision of the Corporations Act; and
- (b) “section” means a section of the Corporations Act.

1.4 Headings and Parts

Headings are inserted for convenience and are not to affect the interpretation of this Constitution.

This Constitution is divided into Parts as indicated by its Contents.

1.5 Replaceable rules not to apply

The provisions of the Corporations Act that apply as replaceable rules are displaced by this Constitution and accordingly do not apply to the Company.

2 Objects and purposes of Company

2.1 Object

- (a) The Company is the pre-eminent organisation that represents open employment and pathway training services for people with disability. The role of the Company is to:
- (i) promote the interests of members to government and the funding bodies;
 - (ii) identify opportunities and strategic alliances that will contribute to sustainable open employment outcomes for people with disabilities; and
 - (iii) generate discussion and consult widely regarding issues affecting employment and pathway training of people with disabilities.
- (b) The Company will achieve its purposes by:
- (i) representing open employment and pathway training services for people with disability;
 - (ii) gathering and disseminating information on behalf of members to relevant government departments and others;
 - (iii) gathering information from government, media and other sources and disseminating it to members; and
 - (iv) undertaking research which promotes opportunities for people with disabilities seeking open employment.

3 Income and property of Company

3.1 Application of income and property for purposes and objects only

The profits (if any), other income and property of the Company, however derived, must be applied solely towards the promotion of the purposes and objects of the Company as set out in Part 2.

3.2 No dividend, bonus or profit paid to Members

No part of the profits, income or property of the Company may be paid or transferred to a Member, either directly or indirectly by way of dividend, bonus or otherwise.

3.3 Payments by Company in good faith

Subject to articles 8.10, 8.11 and 8.12, article 3.2 does not prevent payment in good faith to an officer of the Company or a Member, or to a firm of which an officer of the Company or a Member is a partner:

- (a) of remuneration for services provided by that officer or Member to the Company;
- (b) for goods supplied in the ordinary course of business;
- (c) of interest at a rate not exceeding the rate fixed for the purposes of this article by the Company in general meeting on money borrowed from an officer of the Company or a Member; or
- (d) of reasonable rent for premises let by an officer of the Company or a Member.

3.4 Fundraising Appeals Act

Funds raised by means of a fundraising appeal within the meaning of the *Fundraising Appeals Act 1998 (Vic)* and corresponding legislation in other jurisdictions (as applicable) must be maintained in accordance with those Acts.

4 Membership

4.1 Becoming a Member

Except for a Corporate Body who agreed in writing to the terms of this Constitution before the application for the Company's registration was lodged, a Corporate Body may only become a Member under article 4.2.

4.2 Admission as a Member

The Directors may admit as a Member any Corporate Body who agrees to be bound by this Constitution and any other charter, rules, by-laws, policies or other standards prescribed by the Directors from time to time.

4.3 Application for Membership

A Corporate Body may apply to become a Member by submitting to the Secretary a properly completed application in the form prescribed by the Directors, who will refer the application to the Directors as soon as reasonably practicable

4.4 Effect of application

By completing an application form, the Corporate Body applying to become a Member agrees to be bound by this Constitution and any other charter, rules, by-laws, policies or other standards prescribed by the Directors from time to time.

4.5 Application Fee and Annual Subscription Fee

The Directors may resolve from time to time that any Corporate Body applying to become a Member, or a particular class of Member, must pay an Application

Fee and an Annual Subscription Fee and, if so, how much it is and when and how it is to be paid.

4.6 Decision

The Directors must consider and resolve whether to accept or reject each application for membership and, within a reasonable time after making a decision, give the applicant a notice which states whether the application was successful or not. The Directors are not required to give reasons for rejection of an application for membership of the Company.

4.7 Admission to Membership

Except for a Corporate Body who agreed in writing to the terms of this Constitution before the application for the Company's registration was lodged, a Corporate Body is admitted as a Member when:

- (a) the Corporate Body's application is accepted under article 4.4; and
- (b) the applicant pays the Application Fee and Annual Subscription Fee (if any) in the manner specified by the Directors; and
- (c) the applicant's name is entered by the Secretary in the register of Members within 28 days of payment of the Application Fee and Annual Subscription Fee (if any).

If payment of the Application Fee and Annual Subscription Fee is not made as required, the Directors may, in their discretion, cancel their acceptance of the application for membership of the Company.

4.8 Member to notify changes

A Member must promptly notify the Company of any change in the details with respect to that Member which are recorded in the register of Members.

4.9 Cessation of Membership

A Corporate Body ceases to be a Member if the Member:

- (a) Resigns as a Member of the Company by giving notice in writing to the Secretary;
- (b) is wound up or dissolved except for the purposes of reconstruction or amalgamation recognised by the Board;
- (c) having a liquidator or provisional liquidator appointed to it
- (d) being insolvent
- (e) does not renew their membership within 21 days of the Company calling on the Member to do so (unless otherwise decided by the Board); or
- (f) wilfully refuses to or neglects to comply with the terms of this Constitution or has conducted in a manner which in the reasonable opinion of the Board is unbecoming of a Member or prejudicial to the interests of the Company, and the Board has resolved to expel the Member from the Company in accordance with clause 4.11

4.10 [Not used]

4.11 Termination

The Directors may by written notice to the Member terminate the Member's membership with immediate effect or with effect from a specified date occurring not more than 30 days after service of the notice.

4.12 Corporate representatives

Each Member who is Corporate Body must provide the Company with the name of a corporate representative who will act for the Member in its dealings with the Company. The Member must inform the Company in writing if the corporate representative of that Member changes.

4.13 Honorary members

The Directors may admit any Corporate Body to, and remove any Corporate Body from, honorary membership of the Company. The Directors may not give an honorary member the right to vote on a matter concerning the Company, but may otherwise determine the rights and obligations of an honorary member. An honorary member is not a Member for the purposes of this Constitution or the Corporations Act.

4.14 Patrons

The Directors may appoint and remove any Corporate Body as a patron or any other honorary title-holder of the Company on any terms the Directors think fit. A patron (or other honorary title-holder) may, in the discretion of the Directors, be given the right to:

- (a) attend and speak (but not vote) at any general meeting of the Company and be given notice of the meeting as if they are a Member; and
- (b) receive accounts of the Company when available to Members.

4.15 Chief Executive Officer

The Directors may appoint and remove any person as a Chief Executive Officer of the Company on the terms the Directors think fit. A Chief Executive Officer may in the discretion of the Directors be given the right to:

- (a) attend and speak (but not vote) at any Directors' meeting or general meeting of the Company and be given notice of the meeting as if a Director or Member; and
- (b) receive accounts of the Company when available to Members.

The Directors may on a similar basis and with similar discretions appoint and remove any number of other managers.

4.16 Limited liability

A Member's liability is limited to the making of contributions in accordance with article 17.1.

5 General meetings

5.1 Annual general meeting

Annual general meetings of the Company are to be held in accordance with the Corporations Act.

5.2 Convening a general meeting

The Directors may convene and arrange to hold a general meeting of the Company when they think fit and must do so if required to do so under the Corporations Act.

5.3 Members have power to convene general meeting

If there are not sufficient Directors for a quorum, a Director may convene a general meeting of the Company at the cost of the Company.

5.4 Notice of general meeting

Notice of a general meeting must be given in accordance with Part 14 and the Corporations Act.

5.5 Calculation of period of notice

In computing the period of notice under article 5.4, both the day on which the notice is given or taken to be given and the day of the meeting convened by it are to be disregarded.

5.6 Directors entitled to notice of general meeting

A Director is entitled to receive notice of and to attend all general meetings of the Company and is entitled to speak at those meetings.

5.7 Cancellation or postponement of general meeting

Where a general meeting (including an annual general meeting) is convened by the Directors, they may by notice, whenever they think fit, cancel the meeting or postpone the holding of the meeting to a date and time determined by them or change the place for the meeting.

This article does not apply to a meeting convened in accordance with the Corporations Act by a single Director, by Members, by the Directors on the request of Members, or to a meeting convened by a court.

5.8 Notice of cancellation, postponement or change of place of general meeting

Written notice of cancellation or postponement or change of place of a general meeting must be given to all persons entitled to receive notices of general meetings from the Company. The notice must be given at least 28 days before the date for which the meeting is convened and must specify the reason for the cancellation, postponement or change of place. A notice of a change of place of a general meeting must specify the different place for the holding of the meeting.

5.9 Contents of notice postponing general meeting

A notice postponing the holding of a general meeting must specify:

- (a) a date and time for the holding of the meeting;
- (b) a place for the holding of the meeting, which may be either the same as or different from the place specified in the notice convening the meeting; and
- (c) if the meeting is to be held in two or more places, the technology that will be used to facilitate the holding of the meeting in that manner.

5.10 Business at postponed general meeting

The only business that may be transacted at a general meeting, the holding of which is postponed, is the business specified in the original notice convening the meeting.

5.11 Non-receipt of notice

The non-receipt of, or accidental omission to give, a notice of a general meeting or cancellation, postponement or change of place of a general meeting by, or to, a person entitled to receive notice does not invalidate any resolution passed at the general meeting or at a postponed or changed place meeting or the cancellation or postponement of a meeting.

5.12 Proxy, attorney or Representative at postponed general meeting

Where by the terms of an instrument appointing a proxy or attorney or of an appointment of a Representative:

- (a) the appointed person is authorised to attend and vote at a general meeting or general meetings to be held on or before a specified date; and
- (b) the date for holding the meeting is postponed to a date later than the date specified in the instrument of proxy, power of attorney or appointment of Representative,

then, by force of this article, that later date is substituted for and applies to the exclusion of the date specified in the instrument of proxy, power of attorney or appointment of Representative unless the Member appointing the proxy, attorney or Representative gives to the Company at its Registered Office notice in writing to the contrary not less than 48 hours before the time to which the holding of the meeting has been postponed.

5.13 Use of technology

Without limiting the generality of section 249S of the Act, a general meeting may be convened or held at two or more venues using any technology that gives Members a reasonable opportunity to participate at that general meeting (including telephone, closed circuit television or other electronic means of audio or audio/visual communication).

5.14 Ballots

Subject to the Act, whenever the Board thinks fit it may submit any question or resolution to the vote of all Members entitled to a vote at a general meeting by

means of a postal or electronic ballot in such form and returnable in such manner as the Board decides, provided that notice of any ballot must be given to each Member in the manner provided in clause 5.13. A resolution approved by a majority or specific majority of the Members voting by such ballot will have the same force and effect as such a resolution would have if carried by such a majority or specific majority at a duly constituted general meeting

6 Proceedings at general meetings

6.1 Reference to a Member

Unless the contrary intention appears, a reference to a Member in this Part 6 means a person who is a Member, or:

- (a) a proxy;
- (b) an attorney; or
- (c) a Representative

of that Member.

6.2 Number for a quorum

Subject to article 6.5, 5 Members present in person or by proxy, attorney or Representative are a quorum at a general meeting of the Company.

6.3 Requirement for a quorum

An item of business may not be transacted at a general meeting unless a quorum is present when the meeting proceeds to consider it. If a quorum is present at the time the first item of business is transacted, it is taken to be present when the meeting proceeds to consider each subsequent item of business unless the chairperson of the meeting (on the chairperson's own motion or at the request of a Member, proxy, attorney or Representative who is present) declares otherwise.

6.4 If quorum not present

If within 15 minutes after the time appointed for a general meeting a quorum is not present, the meeting:

- (a) if convened by a Director, or at the request of Members, is dissolved; and
- (b) in any other case, stands adjourned to the same day in the next week and the same time and place, or to such other day, time and place as the Directors appoint by notice to the Members and others entitled to notice of the meeting.

6.5 Adjourned meeting

At a meeting adjourned under article 6.4(b), 5 persons each being a Member, proxy, attorney or Representative present at the meeting are a quorum. If a quorum is not present within 15 minutes after the time appointed for the adjourned meeting, the meeting is dissolved.

6.6 Appointment of chairperson of general meeting

If the Directors have elected one of their number as chairperson of their meetings in accordance with article 8.5, that person is entitled to preside as chairperson at a general meeting of the Company.

6.7 Absence of chairperson at general meeting

If a general meeting is held and:

- (a) a chairperson has not been elected by the Directors; or
- (b) the elected chairperson is not present within 15 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

the following may preside as chairperson of the meeting (in order of precedence):

- (c) the deputy chairperson (if any);
- (d) a Director chosen by a majority of the Directors present;
- (e) the only Director present; or
- (f) a Member chosen by a majority of the Members present in person or by proxy, attorney or Representative.

6.8 Conduct of general meetings

The chairperson of a general meeting:

- (a) has charge of the general conduct of the meeting and the procedures to be adopted at the meeting;
- (b) may require the adoption of any procedure which is in the chairperson's opinion necessary or desirable for proper and orderly debate or discussion and the proper and orderly casting or recording of votes at the general meeting; and
- (c) may, having regard where necessary to the Corporations Act, terminate discussion or debate on any matter whenever the chairperson considers it necessary or desirable for the proper conduct of the meeting,

and a decision by the chairperson under this article is final.

6.9 Adjournment of general meeting

The chairperson of a general meeting may at any time during the meeting adjourn the meeting or any business, motion, question, resolution, debate or discussion being considered or remaining to be considered by the meeting either to a later time at the same meeting or to an adjourned meeting at any time and place, but:

- (a) in exercising this discretion, the chairperson may, but need not, seek the approval of the Members present in person or by proxy, attorney or Representative; and
- (b) only unfinished business is to be transacted at a meeting resumed after an adjournment.

Unless required by the chairperson, a vote may not be taken or demanded by the Members present in person or by proxy, attorney or Representative in respect of any adjournment.

6.10 Notice of adjourned meeting

It is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting unless a meeting is adjourned for one month or more. In that case, notice of the adjourned meeting must be given as in the case of an original meeting.

6.11 Questions decided by majority

Subject to the requirements of the Corporations Act, a resolution is taken to be carried if a simple majority of the votes cast on the resolution are in favour of it.

6.12 Equality of votes - casting vote for chairperson

If there is an equality of votes, whether on a show of hands or on a poll, the chairperson of the general meeting is entitled to a casting vote in addition to any votes to which the chairperson is entitled as a Member or proxy, attorney or Representative of a Member.

6.13 Voting on show of hands

At any general meeting a resolution put to the vote of the meeting must be decided on a show of hands unless a poll is effectively demanded and the demand is not withdrawn. A declaration by the chairperson that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company, is conclusive evidence of the fact. Neither the chairperson nor the minutes need state and it is not necessary to prove the number or proportion of the votes recorded in favour of or against the resolution.

6.14 Demanding a poll

At a general meeting of the Company, a poll may be demanded by:

- (a) at least 3 Members entitled to vote on the resolution; or
- (b) the chairperson of the meeting.

6.15 Poll

If a poll is effectively demanded:

- (a) it must be taken in the manner and at the date and time directed by the chairperson and the result of the poll is a resolution of the meeting at which the poll was demanded;
- (b) on the election of a chairperson or on a question of adjournment it must be taken immediately;
- (c) the demand may be withdrawn; and

- (d) the demand does not prevent the continuance of the meeting for the transaction of any business other than the question on which the poll has been demanded.

6.16 Entitlement to vote

Subject to the rights and any restrictions attached to any class of Members and to this Constitution:

- (a) on a show of hands, each Member present in person and each other person present as proxy, attorney or Representative of a Member has one vote; and
- (b) on a poll, each Member present in person has one vote and each person present as proxy, attorney or Representative of a Member has one vote for each Member that the person represents.

6.17 Objection to voting qualification

An objection to the right of a person to attend or vote at a general meeting or adjourned general meeting or to vote on a poll:

- (a) may not be raised except at that meeting or adjourned meeting or when that poll is taken; and
- (b) must be referred to the chairperson of the meeting, whose decision is final.

A vote not disallowed under the objection is valid for all purposes.

6.18 Chairperson to determine voting dispute

If there is a dispute as to the admission or rejection of a vote, the chairperson of the general meeting must decide it and the chairperson's decision made in good faith is final and conclusive.

6.19 Circulating resolutions of Members

Unless the Corporations Act requires otherwise, the Members may pass a resolution without a general meeting being held if all of the Members who are entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. Separate copies of a document may be used for signing by Members if the wording of the resolution and statement is identical in each copy. The resolution is taken to be passed (and if it is required to be a special resolution to be effective, passed as a special resolution), as if it had been passed unanimously at a duly convened general meeting, at the time the Secretary has evidence that the last Member has signed it.

6.20 Right to appoint attorney

A Member may by power of attorney appoint an attorney to act on the Member's behalf at all or any meetings of the Company or of any class of Members.

To be effective, an instrument appointing an attorney under this article, together with any evidence of non-revocation the Directors require, must be received by the Company at least 48 hours before the meeting.

7 Advisory council

7.1 Setting up an advisory council

The Directors may set up (and disband) an advisory council for the purposes of providing guidance and advice to the Directors (which advice will not be binding on the Directors) and for any other informal purposes as the Directors may decide from time to time.

7.2 Directors' discretion

The Directors have complete discretion as to the composition, functions and rules for proceedings (including frequency of meetings) of any advisory council set up under article 7.1.

8 Directors

8.1 Number of Directors

Unless otherwise determined by the Company in general meeting, the number of Directors may not be less than three or more than nine.

The Directors in office at the time of adoption of this Constitution continue in office subject to this Constitution.

8.2 Change of number of Directors

Subject to this constitution, the Company in general meeting may by resolution increase or reduce the number of Directors, and may also determine the tenure of Directors. For avoidance of doubt, the tenure of Directors is for no more than 4 consecutive Terms, each Term being 2 years.

8.3 Tenure of Directors

Subject to 8.8(b), at each annual general meeting of the Company, any director who has served a Term must retire from office or stand for re-election.

8.4 Appointment of Directors

- (a) For the purposes of article 8.8, where the number of eligible nominee directors is equal to the number of vacancies, those nominees will be deemed elected unopposed by the Members at the annual general meeting.
- (b) For the purposes of article 8.8, where the number of eligible nominee directors exceeds the number of vacancies, the Secretary will organise before the annual general meeting, for a ballot to be conducted in accordance with the By-Laws, to elect Directors from the nominations. Following the result of the ballot, the Secretary will declare which nominees have been successfully elected by the Members.

8.5 Officers

- (a) The Officers of the Company will be:
 - (i) a chairperson who is a Director of the Company;

- (ii) a vice-chairperson who is a Director of the Company;
 - (iii) a treasurer who is a Director of the Company; and
 - (iv) a Secretary who may be a Director or may be a person appointed under article 12.1.
- (b) Subject to article 12.1, Officers shall be elected at the first meeting of the Directors following the annual general meeting in each year. No Officer shall be eligible to hold office for more than two consecutive Terms.

8.6 Office held until conclusion of meeting

A retiring Director holds office until the conclusion of the meeting at which that Director retires.

8.7 Directors elected at general meeting

Subject to this constitution, the Company may, at a general meeting at which a Director retires or otherwise vacates office, by resolution fill the vacated office by electing a person to that office.

8.8 Eligibility for election as Director

- (a) Except for:
- (i) a person who is eligible for election or re-election under article 8.3 or 8.9; or
 - (ii) a person recommended for election by the Directors,
- a person is not eligible for election as a Director at a general meeting of the Company unless a consent to nomination signed by the person and endorsed by an authorised representative of a Member has been lodged at the Registered Office at least 30 business days before the general meeting. Each Member may only endorse the consent to nomination of one nominee at any one time.
- (b) No Director shall be eligible for re-election after four consecutive Terms at which point the Director must retire.
- (c) Unless otherwise determined by the Directors, if:
- (i) a Member withdraws endorsement of a Director under article 8.8(a) after the Director the Member had endorsed has been elected; or
 - (ii) a Director was an officer or employee of a Member and ceases to be an officer or employee of that Member,
- that Director shall cease to be eligible to be a Director of the Company.

8.9 Casual vacancy and Board appointed positions

The Directors may at any time appoint any person to be a Director, either to fill a casual vacancy or as an addition to the existing Directors, provided the total

number of Directors does not exceed the maximum number, if any, determined in accordance with article 8.1.

A Director appointed under this article will be deemed to have been appointed at the annual general meeting prior to their appointment under this article and will hold office for a Term and thereafter be eligible for election.

8.10 Remuneration of Directors

A Director must not be paid any remuneration for services as a Director.

8.11 Reimbursement of expenses

A Director is entitled to be reimbursed out of the funds of the Company.

8.12 Payments to Director

Any payment to a Director which is not prohibited under article 8.10 (including a payment permitted under article 8.11) must be approved by the Directors.

8.13 Director's interests

Subject to complying with the Corporations Act and article 8.14 regarding disclosure of and voting on matters involving material personal interests, a Director may:

- (a) hold any office or place of profit in the Company, except that of auditor, unless being or becoming a Director would breach any law by reason of holding that office;
- (b) hold any office or place of profit in any other company, body corporate, trust or entity promoted by the Company or in which it has an interest of any kind;
- (c) enter into a contract or arrangement with the Company;
- (d) participate in any association, institution, fund, trust or scheme for past or present employees or Directors of the Company or persons dependent on or connected with them;
- (e) act in a professional capacity (or be a member of a firm which acts in a professional capacity) for the Company, except as auditor;
- (f) sign or participate in the execution of a document by or on behalf of the Company; and
- (g) do any of the above despite the fiduciary relationship of the Director's office:
 - (i) without any liability to account to the Company for any direct or indirect benefit accruing to the Director; and
 - (ii) without affecting the validity of any contract or arrangement.

8.14 Conflicts of Interest

- (a) No Director shall be appointed to or attain any office or place of profit in the Company (other than Director) whilst he or she is a Director unless approved by Special Resolution of Members in general meeting.
- (b) A Director who has an interest, direct or indirect, in any contract or arrangement or proposal with the Company must disclose that interest at the first Directors meeting after the acquisition of that interest. Failure to observe this rule will result in automatic removal of the Director.
- (c) No Director shall remain present at any meeting of Directors or of any Committee during any consideration or discussion of or voting upon any question with respect to any contract or arrangement or proposal in which that Director is interested.
- (d) No Director shall directly or indirectly supply goods or services to the Company unless approved by Special Resolution of Members in general meeting.

8.15 Vacation of office

In addition to the circumstances in which the office of a Director becomes vacant under the Corporations Act, the office of a Director becomes vacant if the Director:

- (a) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under a law relating to mental health;
- (b) resigns office by notice in writing to the Company; or
- (c) is not present personally at meetings of the Directors for a continuous period of 4 months without leave of absence from the Directors; or
- (d) ceases to be eligible to be a Director.

9 Proxy

9.1 Appointment of proxy

- (a) A Member may appoint one person, other than a Director, as proxy to attend and vote on its behalf at a general meeting of the Company.
- (b) The instrument appointing a proxy may restrict the exercise of any power.
- (c) A proxy may be, but does not have to be, a Member, but cannot be a Director, unless the Director is acting as the chair of a general meeting

9.2 Proxy instruments

- (a) (a) An appointment of a proxy must be in writing and be signed by the Member appointing the proxy or by the duly authorised attorney of the Member and state:
 - (i) the Member's name and address;

- (ii) the Company's name;
 - (iii) the proxy's name or the name of the office held by the proxy;
and
 - (iv) the general meeting at which the proxy may be used.
- (b) Where a proxy is signed pursuant to a power of attorney, a copy of the power of attorney (certified as a true copy of the original) must be attached to the proxy instrument sent to the Company.
- (c) An instrument appointing a proxy may direct the way in which a proxy is to vote on a particular resolution. If an instrument contains a direction, the proxy is not entitled to vote on the proposed resolution except as directed in the instrument.

9.3 Proxy to be received by Company

- (a) a) The instrument appointing a proxy is not effective unless it is received, together with any additional documentation (if necessary) by the Company at least 48 hours before the general meeting at any of the following:
- (i) the registered office;
 - (ii) a facsimile number at the registered office; or
 - (iii) a place, facsimile number or electronic address specified for that purpose in the notice of the general meeting.
- (b) The chair may in his or her discretion admit an instrument of appointment of a proxy notwithstanding that it is received by the Company after the time set out in clause 9.3(a).

9.4 Revocation of proxy

The appointment of a proxy may be revoked by the Member who appointed the proxy by notice to the Company from the Member or, as the case may be, the duly authorised attorney of the Member, stating that the appointment of a proxy is revoked or by appointing a new proxy.

- (i) the revocation of the instrument appointing the proxy;
- (ii) the appointment of a new proxy; or
- (iii) the revocation of any power of attorney under which the proxy was appointed.

9.5 Validity of votes of proxy

A vote cast by a proxy appointed by a Member will be valid unless before the start of a general meeting at which a proxy votes:

- (a) (a) the Member who appointed the proxy ceases to be a Member; or
- (b) (b) the Company receives notice of:
 - (i) the revocation of the instrument appointing the proxy;

- (ii) the appointment of a new proxy; or
- (iii) the revocation of any power of attorney under which the proxy was appointed

9.6 No liability

The Company is not responsible for ensuring that any directions provided in the instrument appointing the proxy or the way in which a proxy is to vote on a particular resolution are complied with, and accordingly is not liable if those directions are not complied with.

10 Powers and duties of Directors

10.1 Directors to manage Company

The Directors are to manage the business of the Company and may exercise all the powers of the Company that are not, by the Corporations Act or by this Constitution, required to be exercised by the Company in general meeting.

10.2 Specific powers of Directors

Without limiting the generality of article 10.1, the Directors may exercise all the powers of the Company to create By-Laws pursuant to article 10.10, to borrow or raise money, to charge any property or business of the Company or all or any of its uncalled capital and to issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person.

10.3 Appointment of attorney

The Directors may, by power of attorney, appoint any person or persons to be the attorney or attorneys of the Company for the purposes and with the powers, authorities and discretions vested in or exercisable by the Directors for the period and subject to the conditions they think fit.

10.4 Provisions in power of attorney

A power of attorney granted under article 10.3 may contain any provisions for the protection and convenience of persons dealing with the attorney that the Directors think fit and may also authorise the attorney to delegate (including by way of appointment of a substitute attorney) all or any of the powers, authorities and discretions vested in the attorney.

10.5 Signing of cheques

The Directors may determine the manner in which and persons by whom cheques, promissory notes, bankers' drafts, bills of exchange and other negotiable instruments, and receipts for money paid to the Company, may be signed, drawn, accepted, endorsed or otherwise executed.

10.6 Committees

The Directors may delegate (and revoke the delegation of) any of their powers, other than powers required by law to be dealt with by Directors as a board, to a

Committee or Committees consisting of one or more of their number as they think fit.

10.7 Powers delegated to Committees

A Committee to which any powers have been delegated under article 10.6 must exercise those powers in accordance with any directions of the Directors.

10.8 Powers of delegation

The Directors may delegate any of their powers to any persons they select for any period, to be exercised for any objects and purposes on any terms and subject to any conditions and restrictions as they think fit, and may revoke, withdraw, alter or vary the delegation of any of those powers.

The powers of delegation expressly or impliedly conferred by this Constitution on the Directors are conferred in substitution for, and to the exclusion of, the power conferred by section 198D of the Corporations Act.

10.9 Director to notify changes

A Director must promptly notify the Company of any changes in the endorsement of that Director by a Member.

10.10 Power to make By-Laws

- (a) The Directors have the power from time to time to make, amend and repeal all such By-Laws as it deems necessary or desirable for the proper conduct and management of the Company, the regulation of its affairs, and the furthermore of the Company's objects and purposes.
- (b) Without in any way limiting the power of the Directors under this Constitution, the Directors may make, amend and repeal By-Laws which:
 - (i) define the rights, benefits, duties, obligations and status of Members;
 - (ii) regulate all matters relating to applications for, and admission to, Membership of the Company not otherwise provided for in this Constitution;
 - (iii) prescribe the standard of conduct expected of Members and/or Directors; and/or
 - (iv) define and regulate the procedure and order of business of general meetings of Members and meetings of the Directors, to the extent to which this is not provided for in the Constitution.
- (c) No By-Law may be inconsistent with, nor will it affect a repeal or modification of anything contained in the Constitution.
- (d) Any By-Law made by the Directors may be set aside by a special resolution of a general meeting of Members.
- (e) Save as provided in this Constitution, all By-Laws so long as they remain in force will be binding upon all Members.

- (f) A book containing the By-Laws will be kept in such place as the Directors appoint for that purpose.

11 Proceedings of Directors

11.1 Directors' meetings

The Directors may meet together for the dispatch of business at least once quarterly and otherwise adjourn and regulate their meetings as they think fit.

11.2 Director may convene a meeting

The Chairperson or any 3 Directors may convene a meeting of the Directors at any time.

11.3 Questions decided by majority

A question arising at a meeting of Directors is to be decided by a majority of votes of Directors present and entitled to vote and that decision is for all purposes a decision of the Directors.

11.4 [Not used]

11.5 Absence of chairperson at Directors' meeting

- (a) If a Directors' meeting is held and the chairperson, as appointed in accordance with article 8.5 is not present within 10 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act, then the vice-chairperson, as appointed in accordance with article 8.5, shall be chairperson of the meeting.
- (b) If a Directors' meeting is held and the chairperson and the vice-chairperson are not present within 10 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act then the Directors present must elect one of their number to be a chairperson of the meeting.

11.6 Chairperson's casting vote at Directors' meetings

The chairperson of a Directors' meeting has a casting vote, unless only two Directors are present and entitled to vote at the meeting on the question.

11.7 [Not used]

11.8 [Not used]

11.9 [Not used]

11.10 [Not used]

11.11 [Not used]

11.12 [Not used]

11.13 [Not used]

11.14 [Not used]

11.15 [Not used]

11.16 Quorum for Directors' meeting

At a meeting of Directors, the number of Directors whose presence in person or by proxy is necessary to constitute a quorum is as determined by the Directors and, unless so determined, is two.

11.17 Continuing Directors may act

The continuing Directors may act despite a vacancy in their number. If their number is reduced below the minimum fixed by article 8.1, the continuing Directors may, except in an emergency, act only for the purpose of filling vacancies to the extent necessary to bring their number up to that minimum or to convene a general meeting.

11.18 Chairperson of Committee

The members of a Committee may elect one of their number as chairperson of their meetings. If a meeting of a Committee is held and:

- (a) a chairperson has not been elected; or
- (b) the chairperson is not present within 10 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

the Members involved may elect one of their number to be chairperson of the meeting.

11.19 Meetings of Committee

A Committee may meet and adjourn as it thinks proper.

11.20 Determination of questions

Questions arising at a meeting of a Committee are to be determined by a majority of votes of the members of the Committee present and voting.

In the event of an equality of votes the chairperson of the meeting has a casting vote, unless only two members of the Committee are present and entitled to vote at the meeting on the question.

11.21 Circulating resolutions

The Directors may pass a resolution without a Directors' meeting being held if all of the Directors who are entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. Separate copies of a document may be used for signing by the Directors if the wording of the resolution and statement is identical in each copy. The resolution is passed when the last Director signs.

11.22 Validity of acts of Directors

All acts done at a meeting of the Directors or of a Committee, or by a person acting as a Director are, even if it is afterwards discovered that:

- (a) there was a defect in the appointment or continuance in office of a person as a Director or of the person so acting; or
- (b) a person acting as a Director was disqualified or was not entitled to vote,

as valid as if the relevant person had been duly appointed or had duly continued in office and was qualified and entitled to vote.

11.23 Meeting by use of technology

A Director may not leave a telephone meeting by disconnecting the telephone without the consent of the chairperson of the meeting. A Director is deemed to be present and form part of the quorum throughout the meeting unless the Director obtains the consent of the chairperson of the meeting to leave the meeting.

12 Secretary

12.1 Appointment of Secretary

- (a) The Company must have at least one Secretary appointed by resolution of the Directors.
- (b) If the person appointed as Secretary is a Director, the term of that person's office must end no later than the date the person ceases to be a Director.
- (c) Where the tenure of a Director/Secretary ends under article 12.1(b), the Directors may re-appoint the retiring Director to the office of Secretary with effect on and from the conclusion of the person's office as a Director.
- (d) If the person appointed as Secretary is not a Director, then the term of that person's office is at the absolute discretion of the Directors.

12.2 Powers, duties and authorities of Secretary

A Secretary holds office on the terms and conditions (including as to remuneration) and with the powers, duties and authorities, as determined by the Directors. The exercise of those powers and authorities and the performance of those duties by a Secretary is subject at all times to the control of the Directors.

13 Seals

13.1 Safe custody of common seals

The Directors must provide for the safe custody of any seal of the Company.

13.2 Use of common seal

If the Company has a common seal or duplicate common seal:

- (a) it may be used only by the authority of the Directors, or of a Committee authorised by the Directors to authorise its use; and
- (b) every document to which it is affixed must be signed by a Director and be countersigned by another Director, a Secretary or another person appointed by the Directors to countersign that document or a class of documents in which that document is included.

14 Inspection of records

14.1 Inspection by Members

Subject to the Corporations Act, the Directors may determine whether and to what extent, and at what times and places and under what conditions, the accounting records and other documents of the Company or any of them will be open to the inspection of Members (other than Directors).

14.2 Right of a Member to inspect

A Member (other than a Director) does not have the right to inspect any document of the Company except as provided by law or authorised by the Directors or by the Company in general meeting.

15 Service of documents

15.1 Document includes notice

In this Part 15, a reference to a document includes a notice.

15.2 Methods of service

The Company may give a document to a Member:

- (a) personally;
- (b) by sending it by post to the address for the Member in the Register or an alternative address nominated by the Member;

- (c) by sending it to a fax number or electronic address nominated by the Member; or
- (d) by sending it to the Member by other electronic means nominated by the Member.

15.3 Post

A document sent by post:

- (a) if sent to an address in Australia, may be sent by ordinary post; and
- (b) if sent to an address outside Australia, must be sent by airmail,

and in either case is taken to have been received on the day after the date of its posting.

15.4 Fax or electronic transmission

If a document is sent by fax or electronic transmission, delivery of the document is taken:

- (a) to be effected by properly addressing and transmitting the fax or electronic transmission; and
- (b) to have been delivered on the day following its transmission.

15.5 Evidence of service

A certificate in writing signed by a Director or a Secretary stating that a document was sent to a Member by post or by fax or electronic transmission on a particular date is prima facie evidence that the document was so sent on that date.

16 Indemnity and insurance

16.1 Indemnity

To the maximum extent permitted by law, the Company may indemnify any current or former Director or Secretary out of the property of the Company against:

- (a) any liability incurred by the person in that capacity (except a liability for legal costs);
- (b) legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the person becomes involved because of that capacity, and
- (c) legal costs incurred in good faith in obtaining legal advice on issues relevant to the performance of their functions and discharge of their duties as an officer of the Company or a subsidiary, if that expenditure has been approved in accordance with the Board's policy,

except to the extent that:

- (d) the Company is forbidden by law to indemnify the person against the liability or legal costs; or
- (e) an indemnity by the Company of the person against the liability or legal costs, if given, would be made void by law.

16.2 Insurance

The Company may pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring a person who is or has been a Director or Secretary or officer of the Company against liability incurred by the person in that capacity, including a liability for legal costs, unless:

- (a) the Company is forbidden by law to pay or agree to pay the premium; or
- (b) the contract would, if the Company paid the premium, be made void by law.

16.3 Contract

The Company may enter into an agreement with a person referred to in articles 16.1 and 16.2 with respect to the matters covered by those articles. An agreement entered into pursuant to this article may include provisions relating to rights of access to the books of the Company conferred by the Corporations Act or otherwise by law.

17 Winding up

17.1 Contributions on winding up

Each Member undertakes to contribute to the Company's property if the Company is wound up during, or within one year after the cessation of, the Member's membership on account of:

- (a) payment of the Company's debts and liabilities contracted before they ceased to be a Member;
- (b) the costs of winding up; and
- (c) adjustment of the rights of the contributories among themselves,

an amount not to exceed \$10.

17.2 Application of property on winding up

If any property remains on the winding-up or dissolution of the Company and after satisfaction of all its debts and liabilities, that property may not be paid to or distributed among the Members but must be given or transferred to some other institution:

- (a) having objects and/or purposes similar to those of the Company;
- (b) whose memorandum of association or constitution prohibits the distribution of its income and property among its members to an extent at least as great as imposed on the Company under this Constitution; and

- (c) being an institution accepted as a deductible gift recipient under sub-division 30-B of the Tax Act by the Commissioner of Taxation or otherwise approved for these purposes by the Commissioner of Taxation.

The institution is to be determined by the Members at or before the time of dissolution and in default by application to the Supreme Court of Victoria.

18 Accounts

The Directors must cause the accounts of the Company to be maintained and audited in accordance with the requirements of the *Corporations Act 2001* and the *Fundraising Appeals Act 1998* (Vic).

19 Amendment of this Constitution

This Constitution must not be altered except by Special Resolution of Members in general meeting.